

Appl. No. 09/786,080
Atty. Docket No. CM1905Q
Amdt. dated 27 August 2003
Reply to Office Action of July 22, 2003
Customer No. 27752

REMARKS

Claims 1 - 17 are pending in the present application. Claim 5 was amended to correct an inadvertent error in the prior submission. These changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested. No additional claims fee is believed to be due.

Rejection Under 35 USC 103(a) Over Daniels in view of Ouellette

Claims 1-17 have been rejected under 35 USC 103(a) as being unpatentable over Daniels (WO 99/58092) in view of Ouellette et al. (US Pat. 4,637,819). Applicants respectfully traverse this rejection because Daniels is not available as prior art against the present application.

All of the rejections of Claims 1-17 depend in whole or in part on Daniels. Daniels is an International Application which does not designate the United States. Therefore, it is only available as prior art as of its publication on 18 November 1999. The present application entered the national phase on 28 February 2001 from an International Application designating the United States that was filed on 1 September 1999. Therefore, the effective United States filing date of the present application is 1 September 1999. Additionally, the International Application designating the United States claimed priority under 35 U.S.C. §119 to an European patent application filed on 3 September 1998. Accordingly, the present application is entitled to a priority date of 3 September 1998 for prior art purposes. This means Daniels does not qualify as a prior art reference under 35 USC 102(a) or (b). Because all of the rejections under 35 U.S.C. § 103(a) depend in whole or in part on Daniels, they are improper and should be withdrawn.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejection under 35 USC 103(a). Early and favorable action in the case is respectfully requested.

Applicants have made an earnest effort to place their application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, Applicants respectfully request reconsideration of this application and allowance of Claims 1-17.

Respectfully submitted,

Andreas Flohr

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By 

Douglas W. McArthur
Agent for Applicant(s)
Registration No. 50,795
(513) 626-1459

Date 27 August 2003
Customer No. 27752

M & S PRECISION COMPANY
2590 N.W. 4TH COURT
FT. LAUDERDALE, FL 33311
954 792-4420
FAX 954 584-0983

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